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**SEP 19 2006**

Appn. No. 09/939,865

Filed: August 27, 2001

Applicant: Reuben Hertz

Title: **HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE  
MATTER WITH DIRECTIONAL FLOW CONTROL**

Examiner/GAU: Robert Rose / 3723

Official Fax Number: 571 273-8300

Tel: (571) 272-4494

**Certificate of Transmission**

Certificate of Transmission: I certify that on the date below this document and referenced attachments, if any, will be transmitted via facsimile to:

**571 273-8300**

Signed: \_\_\_\_\_

Allen Hertz, Reg. No. 50,942

Date transmitted: September 19<sup>th</sup>, 2006

**Attachments:**

Petition to Withdraw Holding of Abandonment (05 pages)

Replacement Part B Fee Transmittal respective to 09/939,865 (1 page)

Exhibit A: Part B Transmittal as originally submitted (1 page)

Exhibit B: Issue Fee payment and Return Postcard as originally submitted (1 page)

Exhibit C: Return postcard receipt as originally received (1 page)

Certificate of Transmission (this page)

SEP 19 2006

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

Appn. No. 09/939,865

Filed: August 27, 2001

Applicant: Reuben Hertz

Title: **HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE  
MATTER WITH DIRECTIONAL FLOW CONTROL**

Examiner/GAU: Robert Rose / 3723

Official Fax Number: 571 273-8300

Tel: (571) 272-4494

Transmitted on: 2006, September 19

**Petition to Withdraw Holding of Abandonment**

Mail Stop: **Office of Publications**  
Commissioner of Patents and Trademarks  
Patent and Trademark Office  
United States Department of Commerce  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Office of Petitions Fax Number: 571 273-0025

SIR:

In response to the Notice of Abandonment Mailed 2006, August 30<sup>th</sup>, Applicant requests to Petition to revive the subject application based upon the following:

Applicant submitted Issues fees for the subject application and submitted the Incorrect application numbers. Applicant submitted Issue fees for the subject application, but inadvertently submitted the fees on papers identified for a previously Issued patent, Application number 10/704,517.

Applicant has attached copies of all papers submitted on June 07, 2006 for payment of Issue fees and publication fees which were incorrectly identifying a previously issued patent, USPN 10/704,517. Attached are Part B Fees Transmittal

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

identifying the certificate of mailing being June 07, 2006, a copy of the check submitted on 6-7-06 for \$1000 referencing Application No. 10/704,517, and the return postcard as mailed identifying the check and date of deposit as such. Also attached is a copy of the return postcard as received with an OIPE stamp dated Jun 12, 2006.

Applicant inadvertently used the incorrect part B transmittal and should have used the one reflecting the 09/939,865 application.

Applicant has attached a completed Part B Fee Transmittal respective to the subject application for completeness of the file.

Applicant respectfully petitions to:

- 1) Withdraw holding of abandonment of Application No. 09/939,865.
- 2) Apply the fees submitted on June 07, 2006 from Application No. 10/704,517 to Application No. 09/939,865.

Applicant earnestly believes that Applicant has submitted evidence that the payment was made in a timely manner (June 07, 2006) for a due date of July 28<sup>th</sup>, 2006 as follows:

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

Exhibit A: Part B Fee Transmittal dated June 07, 2006 to 10/704,517 which had already Issued as USPN 6,951,505 on October 4th, 2005.

Exhibit B: Check number 3387 In the amount of \$1000 and respective return postcard stating date of deposit on June 07, 2006.

Exhibit C: The respective return postcard receipt stating date of receipt by the USPTO on June 12, 2006.

Applicant has confirmed with the Office of Petitions that issue fee payment was received and placed against Application No. 10/704,517 in accordance with the submitted documentation. Applicant notes that Application No. 10/704,517 had issued on October 4<sup>th</sup>, 2005 and that the subject issue fees were paid on June 07<sup>th</sup>, 2006.

Applicant respectfully requests the Office of Petitions grant this petition, transfer the Issue fees from Application No. 10/704,517 to Application No. 09/939,865, and withdraw the holding of abandonment of Application No. 09/939,865.

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

**CONCLUSIONS**

Applicant believes the submitted petition presents sufficient evidence that the Applicant made a bonafide attempt to submit the issue fee and respective publication fee for the subject application prior to the due date of July 28<sup>th</sup>, 2006.

Applicant has submitted a replacement form, Part B Fee Transmittal respective to Application No. 09/939,865.

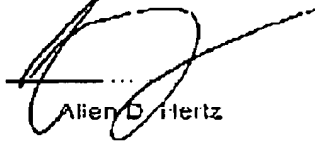
The Office has established a shortened statutory period of **two (2) months** for response to the **Notice of Abandonment** mailed on August 30<sup>th</sup>, 2006. Applicant has responded to the Office Action on or before October 30<sup>th</sup>, 2006 with a proper certificate of correspondence, being submitted in less than **Two (2) Months** from the date of mailing of the subject **Notice of Abandonment**. Therefore, the Applicant believes the response is timely. Applicant believes the response provided is complete.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, a telephone call to the Agent of Record (Allen Hertz) at (561) 883-0115 (Office)(Please leave a message) or (561) 716-3915 (Cell phone) is respectfully solicited.

Application Ser. No. 09/939,865

Petition to Withhold Abandonment

Respectfully submitted,



Allen D. Hertz

Agent of Record, Reg. No.: 50,942

Please submit all correspondence concerning this patent application to:

Allen D. Hertz

Registration Number: 50,942



**31877**

**PATENT & TRADEMARK OFFICE**

Customer Number: 31877  
12784 Tulpwood Circle  
Boca Raton, Florida 33428  
Tel / Fax: 561/883-0115  
Cell: 561/716-3915

SEP 19 2006

## PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail Stop ISSUE FEE**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, Virginia 22313-1450**  
 or **Fax (571)-273-2885**

**ISSUE FEE:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed when appropriate. All further correspondence including the Patent Assignment Orders and notification of maintenance fees will be mailed to the current correspondence address indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address, and/or (b) indicating a separate "FEE ADDRESS".

1. CHANGE OF CORRESPONDENCE ADDRESS OR INDICATION OF "FEE ADDRESS"

Note: A certificate of mailing can only be used for domestic mailings of 1 Patent Transmittal. This certificate cannot be used for any other document or papers. Each of these papers, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED  
 DATE 08-22-06  
 BY 60322  
 ALLEN D. HERTZ  
 12784 TULIPWOOD CIRCLE  
 BOCA RATON, FL 33428

**Certificate of Mailing or Transmission**  
 I hereby certify that this Patent Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop, ISSUE FEE, address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

Allen D. Hertz  
 September 19, 2006

APPLICANT'S NAME	INVENTOR'S NAME	INVENTOR'S ADDRESS	INVENTOR'S CITY/STATE/ZIP	CONFIRMATION NO.
00 883,885	08 27 2006	Reuben Hertz		3746

TITLE OF INVENTION: HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE MATTER WITH DIRECTIONAL FLOW CONTROL

APPLICANT'S NAME	INVENTOR'S NAME	INVENTOR'S ADDRESS	INVENTOR'S CITY/STATE/ZIP	CONFIRMATION NO.	DATE DUE
00 883,885	08 27 2006	Reuben Hertz		3746	09 24 2006
EXAMINER	ARTICLE	CLASSIFICATION			
ROSE, ROBERT A	0723	451 000000			

1. Change of correspondence address or indication of "FEE ADDRESS" (PTO 501, 563)	2. For mailing on the patent front page, list: (1) the names of up to 2 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.	Allen D. Hertz
<input type="checkbox"/> Change of correspondence address (a Change of Correspondence Address form PTO 501, 563 attached)		
<input type="checkbox"/> "FEE ADDRESS" indication (or "FEE ADDRESS" Indication form PTO 501, 563, Rev. 03-02, or more recent) attached. Use of a Customer Number is required.		

ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT FRONT PAGE

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed in accordance with 37 CFR 2.101. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private entity ☐ Government

(a) The following fees are enclosed:

(b) Payment of Fees:

- ☒ Issue Fee  
☒ Publication Fee (a small entity discount permitted)  
☐ Advance Order - # of Copies

- ☒ A check in the amount of the fees is enclosed  
☐ Payment by credit card (if the PTO 201a is attached)  
☐ The Director is hereby authorized by check and requested reason or credit card payment to (a) use an extra copy of this form

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27 ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(b)(2)

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee of any fee to be applied. Any previously paid issue fee to the application identified above. The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party named as shown in the records of the United States Patent and Trademark Office.

Authorized Signature

Date September 19, 2006

Typed or printed name

Allen D. Hertz

Registration No. 50,942

This collection of information is required by 37 CFR 1.11. The information is required to obtain or retain a benefit by the public which is to be filed by the USPTO to process an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is exempt from the 12 minutes to complete, including gathering, preparing, a submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. (DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS SEND TO: Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450)

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# **Appendix A**

## **Part B Fee Transmittal Originally Submitted on June 07, 2006**



SEP 19 2006

## PART D - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail

Mail Stop ISSUE FEE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
or Fax (703) 746-4000

**INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Indicate Block 1 if any change of address)

31877 7590 05-03-2005

ALLEN D. HERTZ  
12784 TULIPWOOD CIRCLE  
BOCA RATON, FL 33428

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmittal.

**Certificate of Mailing or Transmittal**  
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being furnished by transmittal to the USPTO (703) 746-4000, on the date indicated below.

Allen D. Hertz (Depositor's name)  
(Signature)  
June 07, 2006 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY/AGENT/PRO	CONFIRMATION NO.
10724517	11-08-2003	Keshen Hertz		4035

TITLE OF INVENTION, METHOD USING HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE MATTER

APPL. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$700	\$300	\$1000	08/02/2003

EXAMINER	ART UNIT	CLASS-SUBCLASS
ROSE, ROBERT A	3723	451-038000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.303).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/147; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Allen D. Hertz

2

3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:

☒ Issue Fee☒ Publication Fee (No small entity discount permitted)☐ Advance Order - # of Copies

4b. Payment of Fee(s):

☒ A check in the amount of the fee(s) is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment to Deposit Account Number (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.37.☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant, a registered attorney or agent, or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature

Date June 07, 2006

Typed or printed name

Allen D. Hertz

Registration No. 50,942


This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO in process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is exempted to the 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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## **Appendix B**

**Issue Fee Payment, Check No. 3387  
for \$1000  
Return Postcard**

**All as Originally Submitted  
on June 07, 2006**

 **ALLEN HERTZ**  
**KIM HERTZ**  
 PH: 561-883-0115  
 12784 TULIPWOOD CIR.  
 BOCA RATON, FL 33428

**3387**  
 70-8431/2919  
 83

DATE 6-7-06

PAY TO THE ORDER OF Commission for Patents \$ 1000  
One thousand dollars

**MECU** Metairie Employees Credit Union  
 Ft. Lauderdale, FL 33322

FOR 10/704,517

⑆ 27198431⑆000000062254807⑆3387

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to my office.

Applicant: Reuben Hertz  
 Serial No.: 10/704,517

For: **METHOD USING HANDHELD APPARATUS FOR  
 DELIVERY OF PARTICULATE MATTER**

Filed: November 08, 2003

#### Issue Fee

Date of Deposit: June 07, 2006  
 Mail: First Class Mail  
 Enclosures: Issue Fee Transmittal (1 Page);  
 Check 3387 for \$1000,  
 Return Postcard

# **Appendix C**

## **Return Postcard Receipt**

**All as Stamped on June 12, 2006**

Please acknowledge receipt of the following by affixing hereon the Patent and Trademark Office date stamp and returning this card to my office.


Applicant: Reuben Hertz  
Serial No.: 10/704,517

For: **METHOD USING HANDHELD APPARATUS FOR DELIVERY OF PARTICULATE MATTER**

Filed: November 08, 2003

Issue Fee

Date of Deposit: June 07, 2006  
Mail: First Class Mail  
Enclosures: Issue Fee Transmittal (1 Page);  
Check 3387 for \$1000.  
Return Postcard



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